



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BAKER & DANIELS LLP
202 SOUTH MICHIGAN ST
SUITE 1400
SOUTH BEND IN 46601

COPY MAILED

OCT 01 2008

OFFICE OF PETITIONS

In re Application of :
Valia, et al. :
Application No. 09/846,829 : ON PETITION
Filed: May 1, 2001 :
Attorney Docket No. ISP0086 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 17, 2008.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file an Appeal Brief after a Notice of Appeal had been filed on December 13, 2007. The Office had previously mailed a final Office action on June 14, 2007. In reply, applicants filed a Notice of Appeal, together with a Pre-Appeal Brief Request for Review. The filings were made timely by obtaining a three month extension of time. The Office mailed a Notice of Abandonment on August 13, 2008. The Notice stated that applicant had two months from December 13, 2007 to file a Notice of Appeal or an RCE, and as neither was filed, the application was now abandoned.

With regards to the Pre-Appeal Brief Request for Review, the Office has stated in the Official Gazette:

Upon receipt of a properly filed request, a Technology Center Art Unit supervisor will designate a panel of examiners experienced in the field of technology to review the applicants's remarks and the examiner's

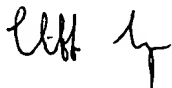
rejections....The panel members will review the rejection(s) identified by applicant in the request....The Office should mail a decision within 45 days of receipt of a properly filed request.¹

In view of the above, it is obvious that the Notice of Abandonment was mailed in error.

Accordingly, the holding of abandonment is **WITHDRAWN**.

The matter is being forwarded to Group Art Unit 1797 for a panel review of the Pre-Appeal Brief Request for Review, filed December 13, 2007.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

¹ See New Pre-Appeal Brief Conference Pilot Program, 1296 Off. Gaz. Pat. Office 67 (July 12, 2005). On January 10, 2006, the pilot program was extended by the Office, until further notice.